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TESTIMONY IN OPPOSITION TO SENATE BILL No. 1208 - AN ACT CONCERNING FINANCIAL REPORTING BY CONDOMINIUM AND COMMON INTEREST COMMUNITY ASSOCIATIONS

MARCH 25, 2011

Good morning Senator Coleman, Representative Fox, Senator Kissel, Representative Hetherington and members of the Judiciary Committee. Thank you for the opportunity to provide testimony on behalf of Imagineers, LLC ("Imagineers").

I am Karl Kuegler, Jr. of Imagineers, LLC where I serve as the Director of Property Management for our common interest community management division. From our offices located in Hartford and Seymour, we serve about 140 Connecticut common interest communities comprising about 13,000 homes. Imagineers is registered with the Department of Consumer Protection as a Community Association Manager holding registration number 0001 and has been serving Connecticut common interest communities for 30 years. I have over 20 years experience in the common interest community management. Imagineers is a member of the Connecticut Chapter of Community Associations Institute. I serve on the organization's Legislative Action Committee.

We are not in favor of the revisions offered in Bill No. 1208.

Requirements in Section 1. (a) to create separate financial reports for a community's operating account, reserve account and special assessment for capital projects can lead to confusion. Methods exist within one financial report for communities to segregate and account for these categories while providing one clear set of financial reports that disclose the financial standing of the community as a whole to board members, current owners and buyers.

Restrictions in Section 1. (d) on the ability for Associations to borrow from their reserve funds unless the funds can be paid back within 90 days is overly restrictive. Associations faced with a cash flow problem as a result of an emergency or crisis (an example being the extreme winter conditions this year), may need a longer period of time to pay back the fund borrowed to cover expenses that it had no choice but to incur. Associations are faced with a lag time in their ability to assess and collect fees from home owners for out of the ordinary expenses. Potentially compounding the association's ability to fund emergency expenses are revisions proposed to the Common Interest Ownership Act through Bill No. 6620 in which Boards would be in essence stripped of their ability to approve assessments greater than 15% of the annual operating budget through the removal of the ratification process.

Requirements provided for in Section 1. (e) are not practical, create undue expense and additional work for common interest communities and pose a risk to the security of the association's cash assets.

Our concerns are a result of the following:

- The revisions require that every association have its financial reports prepared no later than 15 days after the end of each calendar month. The requirement does not take into consideration the fact that information such as bank statements, invoices for expenses incurred during the period may need to be received in order to produce the statement. It does not take into consideration that management companies preparing statements for multiple associations will be unduly impacted. Many management organizations have higher skilled accounting staff whose primary responsibility is preparing financial statements. In essence, the changes take the responsibilities carried out during a full month and compress them into the first 2 weeks of the month.

- The requirement that the reports be made available within 15 days after the end of each calendar month does not take into consideration the need for Boards of Directors to receive, review and approve the drafted reports (whether drafted by a retained professional or volunteer) before releasing.

- Generally Accepted Accounting Principles provide that association use accrual basis accounting. The requirement provided for in Section 1. (b) takes the accrual basis reports and attempts to convert to a cash basis report. Accrual based reporting has proven to be the best method of accounting to show the true financial position of an association. The new reporting requirements will lead to greater confusion and misunderstanding on the part of Board members, unit owners and potential buyers.

- Section 1. (c) (1) and (2) will require unit owners to send in multiple checks or electronic payments to ensure that payments received that are designated for reserves, operating and a special assessment are not placed in the same cash account. This adds multiple layers of additional accounting work, leads to confusion as to the when a unit owner becomes delinquent in the payment of fees, leads to confusion when disclosing in a resale document to a potential buyer as to the fees outstanding on the unit they are purchasing. Furthermore, the trend in technology is in the direction of electronic payment of fees and the use of lock box services. In the case of a lock box arrangement, associations would need to provide as many as 3 different coupon booklets that each unit owner would need to use monthly when submitting separate checks. Having had past experience with associations that required separate checks for assessments and for common fees; I can attest to the fact that even when asked to submit separate checks owners routinely submitted one check resulting in one portion of their respective account being delinquent and the other having a credit. Associations then needed to transfer funds between accounts meanwhile faced with an unhappy homeowner who fails to understand why they received a late statement on one of their receivable accounts.

- Associations have the authority to charge late fees on fees not paid in a timely fashion. In the event that the association is required to collect multiple payments from unit owners accounting for each separately, how and on what would the late fee be applied? If applied to just one of the fees due, would collections issues exist on the fee not subject to late fees?

- The revision requires that "at the option of the unit owner" that the monthly financial reports and copies of such separate bank account statements be "available to each unit owner through an Internet web site maintained by the association or a community association manager, as defined in section 20-450 of the general statutes, or by United

States mail". In effect the revision will require every association to have a website by virtue of the provision that it is at the option of the unit owner. Not every association will have the financial resources, expertise or access to a management company's website to be able to provide access through the internet. Furthermore, associations that are not able to create a secure location for this information to be posted on the internet, will be disclosing their intimate financial information (including bank statements) to anyone on the internet. This poses a high risk for financial theft while also disclosing costs to potential service providers thus jeopardizing the association's ability to seek the best pricing through the bidding process.

- In the vast majority of communities, the financial statements are included in the information distributed to Board members in advance of the Board meetings. Revisions to the Common Interest Ownership Act put into effect on July 1, 2010 already require the association to make this information reasonably available to unit owners at the same time it is made available to the Board.

- A more reasonable and practical provision would be to require that the Association make the reports reasonably available to owners upon the unit owner's request once the reports are approved or accepted by the Board. The Board should have the option to provide the reports by mail if electronic means are either not available or lack the security required to protect the interests of the association.